

REMARKS

This responds to the non-final Office Action dated 15 August 2006 (Paper No. 20060810). Claim 26 has been amended to correct a minor matter of form. No new matter has been added. Claims 24-29, 31, and 42 are presently pending in the application, each of which Applicants believe is in condition for allowance. Claims 30 and 43-45 have been withdrawn as being directed to a non-elected species of the invention, but will be allowable upon the allowance of independent claims 24 and 42, respectively. Applicants respectfully request reexamination and reconsideration in light of the above amendments and the following remarks.

Claim Rejections – 35 U.S.C. § 103(a)

In the Action, the Examiner withdrew the prior rejection of claims 24-29, 31, and 42 under 35 U.S.C. § 102(e) as allegedly being anticipated by or, alternatively, under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,717,379 to Ekholmer. However, the Examiner now rejects claims 24-29, 31, and 42 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,630,609 to Chin (“Chin”). Applicants respectfully traverse this rejection.

Independent claim 24 recites, *inter alia*, “a third aperture formed through the outer tube proximate the distal end thereof, communicating with the third lumen.” Similarly, independent claim 42 recites, *inter alia*, “a plurality of third apertures formed through the outer tube located further from the distal end thereof than the plurality of the second apertures, the plurality of third apertures in communication with the third lumen.”

In contrast, the Chin reference clearly fails to disclose, teach, or suggest at least “a third aperture formed through the outer tube proximate the distal end thereof,” as is recited in independent claims 24 and 42 of the instant application. Even assuming, *arguendo*, and as alleged by the Examiner, that Chin discloses a “third aperture” (unlabeled, but illustrated in FIG. 6 proximate the distal end of catheter 10) in communication with pressure medium supply lumen 30, FIG. 6 indicates that this “third aperture” is formed through a portion of inner catheter 14 (alleged by the Examiner to satisfy the “inner tube” limitation of claims 24 and 42), as opposed to outer catheter 12 (alleged by the Examiner to satisfy the “outer tube” limitation of claims 24 and 42). In fact, as is clearly illustrated in FIG. 6, the distal end of outer catheter 12 terminates prior to the “third aperture” in inner catheter 14, such that this “third aperture” could not possibly be “formed through the outer tube,” as is required independent claims 24 and 42 of the instant application.

Accordingly, because Chin fails to disclose, teach, or suggest each and every limitation recited in independent claims 24 and 42, a *prima facie* case of obviousness has not been established. *See, e.g., In re Royka*, 490 F.2d 981, 985 (CCPA 1974) (holding that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art); *accord.* MPEP § 2143.03 (“To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) must teach or suggest all the claim limitations.”) (emphasis added). Applicants therefore respectfully request the withdrawal of this rejection.

Moreover, aside from the novel limitations recited therein, claims 24-29, 31, and 42, being dependent either directly or indirectly upon allowable base claims 24 and 42,

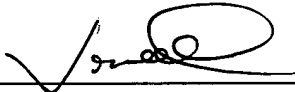
are also allowable at least by virtue of their dependency upon these allowable claims. Accordingly, Applicants courteously solicit the withdrawal of these rejections.

Conclusion

For at least the foregoing reasons, Applicants believe that each of the presently pending claims in this application is in immediate condition for allowance. Accordingly, Applicants respectfully request the Examiner to pass this application to issue. If the Examiner has any further comments or suggestions, Applicants invite the Examiner to telephone the undersigned attorney to expedite the handling of this matter.

Respectfully submitted,

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